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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,132	04/21/2000	Roger G. Etter	ENV1298-002D	6699

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STANDLEY & GILCREST LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

EXAMINER

YILDIRIM, BEKIR L

ART UNIT PAPER NUMBER

1764

DATE MAILED: 12/19/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/556,132

Applicant(s)

ETTER, ROGER G.

Examiner

Bekir L. YILDIRIM

Art Unit

1764

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 & 5
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Nagashi et al.* (USP 4,202,868) ~~Keel~~ (US-PAT-NO: 3617480) in view of Yan (USP 4096097) or Grindstaff et al. (US-PAT-NO: 4369171) in view of Yan (USP 4096097).

Keel teaches a green coke, as starting material, which may be a regular or lower grade petroleum coke having a volatile matter content of 8-20%, by weight (see claim 6).

Grindstaff et al. teaches a sponge or "regular" coke obtained from delayed coking (which is a form of thermal cracking) wherein a list of "regular" cokes ranging in volatile matter (vm) contents in 8.8 to 21.6 % is provided (see Table 1).

It is acknowledged that the references fail to elaborate on the "additives" that may be added to the coking feed to provide spongy form.

Yan US 4096097 A teaches a method of producing high quality sponge coke or not to make shot coke wherein, it is disclosed that the addition of 0.5 to 20 percent by weight of an oxygen-containing, carbonaceous material which decomposes under coking conditions to delayed coker fresh and/or recycle feed promotes the formation of high quality sponge coke. The oxygen-containing, carbonaceous additives are selected from comminuted coal and lignite and materials such as bagasse, sugar beet waste, sawdust (wood), and other cellulosic wastes (see col. 3, lines 30-60).

It would have been obvious then to produce the sponge coke in Grindstaff process or Keel process, by employing the additives suggested by Yan, since Yan teaches that the employment of the additives promote the formation of high quality sponge coke, which technical endeavor it shares with Grindstaff and Keel.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

Art Unit: 1764

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,168,709 B1 in view of Yan (USP 4096097)

The patent claims essentially the same process steps and the resultant product, with the exception of the 'additives' in the instant claims. Yan (USP 4096097) . teaches a method of producing high quality sponge coke or not to make shot coke wherein, it is disclosed that the addition of 0.5 to 20 percent by weight of an oxygen-containing, carbonaceous material which decomposes under coking conditions to delayed coker fresh and/or recycle feed promotes the formation of high quality sponge coke. The oxygen-containing, carbonaceous additives are selected from comminuted coal and lignite and materials such as bagasse, sugar beet waste, sawdust (wood), and other cellulosic wastes (see col. 3, lines 30-60).

It would have been obvious then to produce the sponge coke in Grindstaff process or Keel process, by employing the additives suggested by Yan, since Yan teaches that the employment of the additives promote the formation of high quality sponge coke, which technical endeavor it shares with Grindstaff and Keel.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

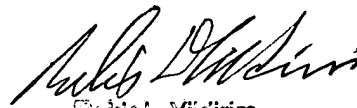
US-PAT-NO: 4534951 provides definitions of various cokes.

Art Unit: 1764

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bekir L. YILDIRIM whose telephone number is (703) 308-3586. The examiner can normally be reached on 10:30-8:00 (alternating Mondays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (703) 308-6824. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 872-9467 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-0611.



Bekir L. Yildirim
Primary Examiner

BLY
December 16, 2002